IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6179 OF 2007

Om Saints English Medium School ..Petitioner

Vs.

The Regional Provident Fund Commissioner and anr. ..Respondents

Mrs. Lata Desai with Ms. Pallavi Divekar for petitioner.

Ms. S.V. Bharucha for respondents.

CORAM: B.H. MARLAPALLE, J.

Date : November 19, 2007.

P.C.:

1. Heard Mrs. Desai the learned counsel for the petitioner-school. Being aggrieved by an order dated 31/10/2006 passed under Section 7A of the Employees Provident Funds and Miscellaneous Provision Act, 1952, the petitioner has filed an appeal before the Appellate Tribunal established under the said Act and along with the said appeal an application has also been filed for waiver of the deposit amount. On 30/5/2007 the Appellate Tribunal passed an order and the petitioner has been directed to deposit 50% of the

determined amount and notice came to be issued to the respondent - Regional Provident Fund Commissioner.

This order is impugned in the petition.

2. Mrs. Desai the learned counsel for the petitioner - school has referred to the proviso below Rule 7(3) of the Employees Provident Funds Appellate Tribunal (Procedure) Rules 1997 and submitted that in a given case there could be a complete waiver in the condition of pre-deposit for proceeding with the appeal to be heard and decided on merits. She further submitted that the petitioner is a school and it has a very good case to succeed before the Appellate Tribunal.

3. The impugned order shows that the Appellate Tribunal has already exercised its discretion under Rule 7(3) of the Procedure Rules 1997 and Mrs. Desai states that an amount of Rs.1,00,000/- has already been deposited.

4. Having regards to the peculiar facts of this case, the impugned order is modified by directing the petitioner to deposit 25% of the amount determined by

the order dated 31/10/2006 which is a subject matter of challenge in the pending appeal and this deposit (balance amount) shall be made within four weeks with respondent no.1. It is further directed that the pending appeal be heard and decided on its own merits as expeditiously as possible and preferably within six weeks.

5. Petition disposed off accordingly.

(B.H. Marlapalle,J.)